

Application No.: 09/770,997

3

Docket No.: 509982000100

REMARKS/ARGUMENTS

In the Office Action mailed on September 10, 2003, claims 57-88 were rejected. Claim 57-88 remain pending in the present application. Applicants request reconsideration in view of the following remarks.

I. Specification

By this amendment, the current abstract has been canceled and a replacement abstract has been added.

II. Claim Rejections – 35 USC § 112

The Examiner rejected claims 57-88 under 35 U.S.C. 112, second paragraph as being indefinite. The Examiner asserted that at least parts of the limitations of the claims are based on “hypothetical” limitations.

Applicants assert that the limitations of the claims that include the term “hypothetical” are not “hypothetical” limitations nor are they indefinite merely because of the use of the term “hypothetical.”

For example, claim 57 recites, in part, “generating sets of intermediate layer data, wherein each set of intermediate layer data corresponds to a separate one of a plurality of hypothetical layers of a hypothetical profile of the periodic grating.” Applicants assert that one skilled in the art would understand “hypothetical profile” to be an assumed or supposed profile. Similarly, one skilled in the art would understand “hypothetical layers” to be assumed or supposed layers. Thus, the use of the term “hypothetical” clarifies that the “hypothetical profile” is not necessarily the actual profile of the periodic grating and “hypothetical layers” are not necessarily actual layers of the actual profile, but does not make the limitation of “generating sets of intermediate layer data” a hypothetical limitation or indefinite.

sf-1569116

Application No.: 09/770,997

4

Docket No.: 509982000100

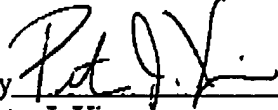
III. Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 509982000100.

Dated: December 10, 2003

Respectfully submitted,

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sf-1569116